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Attorneys for Defendants Don Evans,
Secretary of Commerce, U.S. Department
Of Commerce, and William T. Hogarth,
Assistant Administrator for Fisheries,
National Marine Fisheries Service

1
2 **UNITED STATES DISTRICT COURT**
3 **NORTHERN DISTRICT OF CALIFORNIA**
4 **SAN FRANCISCO DIVISION**

5 CENTER FOR BIOLOGICAL DIVERSITY,)
6 a non-profit corporation, DOUGLAS L.)
7 BEVINGTON, an individual, DIANE)
8 LADOUCEUR, an individual, and KIERAN)
9 MULVANEY, an individual,) Case No.: C-04-4496-WHA
10 Plaintiffs,)
11 v.)
12 DON EVANS, Secretary of Commerce, U.S.)
13 Department of Commerce, and WILLIAM T.)
14 HOGARTH, Assistant Administrator for)
15 Fisheries, National Marine Fisheries Service,)
16 Defendants.)
17 _____)

18 Whereas plaintiffs have moved for an award of fees and costs against the federal
19 defendants under the Endangered Species Act, 16 U.S.C. § 1540(g)(4) (“ESA”), for the time and
20 costs they have expended on this litigation;

21 Whereas the Court, on September 14, 2005, entered an Order Finding Plaintiffs’ Entitled
22 to Attorneys’ Fees under the ESA;

23 Whereas plaintiffs and federal defendants desire to resolve plaintiffs’ claim for fees and
24 costs without the need for an expenditure of significant additional time or resources on that issue
25 by the parties or the Court;

26 Whereas plaintiffs and federal defendants agree that it is in the public interest to avoid a
27 protracted dispute over the fee and cost issue;

28 Whereas plaintiffs and federal defendants have now reached a settlement of the fee and
29 cost claim that does not entail any concession of law or fact by either plaintiffs or federal
30 defendants;

1 It is therefore stipulated and agreed to, by and between plaintiffs and federal defendants
2 that:

3 1. Federal defendants will pay plaintiffs, pursuant to section 11(g) of the ESA,
4 \$97,000.00 in full settlement of plaintiffs' claim for attorneys' fees and costs through the date of
5 the filing of this Stipulation. Defendants will issue a check in that amount to:

6 Meyer Glitzenstein & Crystal
7 Suite 700
1601 Connecticut Ave., N.W.
Washington, D.C. 20009.

9 2 Defendants agree to submit all necessary paperwork to funding authorities at the
10 Department of the Treasury within ten (10) business days of receipt of the signed court order
11 approving this stipulation.

12 3. It is further stipulated that this Stipulation and agreement applies only to attorneys'
13 time and litigation costs expended prior to the date of the filing of this Stipulation. It does not
14 waive plaintiffs' right to seek fees or costs for time expended in this or any other litigation
15 following the date of the filing of this Stipulation. Defendants reserve the right to contest any
16 future attempt to seek fees or costs by plaintiffs.

17 4. Paragraphs 2-15 of the Court's September 14, 2005 Order should be vacated as moot
18 since this Stipulation renders the process set forth in those paragraph unnecessary.

19 5. This stipulation as to attorneys' fees and costs has no precedential value and its
20 contents shall not be used as evidence in any other attorneys' fees litigation. By this agreement,
21 defendants do not waive any right to contest fees claimed by plaintiffs or plaintiffs' counsel,
22 including the hourly rate, in any future litigation.

23 6. In an e-mail dated Thursday, September 27, 2005, Counsel for the defendants, Mr.
24 Jimmy A. Rodriguez, authorized plaintiffs' counsel to sign this joint stipulation and enter it in
25 the ECF system.

26 Respectfully submitted on September 27, 2005,
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1
2 /s/
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23 and Kieran Mulvaney.

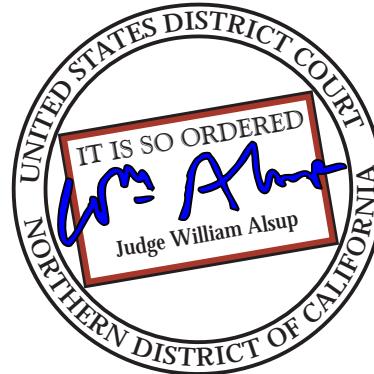
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25 /s/
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29 Attorneys for Defendants Don Evans,
30 Secretary of Commerce, U.S. Department
31 Of Commerce, and William T. Hogarth,
32 Assistant Administrator for Fisheries,
33 National Marine Fisheries Service

1 SO ORDERED:

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3 U.S. District Judge

4 Dated: Sept. 28, 2005



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